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The Commission on Judicial Conduct (CJC) is separate from the EAC. The CJC is a constitutionally-created, independent agency of the judicial branch of state government which enforces the Code of Judicial Conduct, pursuant to WA State Const. Art IV, §31. Although EAC opinions are not binding on the CJC, a judge's compliance with an opinion by the EAC shall be considered as evidence of the judge's good faith. GR 10(b). The CJC has a searchable website at www.cjc.state.wa.us.

STATE OF WASHINGTON
ETHICS ADVISORY COMMITTEE
OPINION 10-1

Question

May a court collect information on red light traffic camera cases that are dismissed at mitigation or pre-trial hearings and furnish that information to the city attorney's office where the city does not appear at the hearing?

May a court generate weekly session sheets from the court's case management system detailing upcoming hearings for a particular red light traffic camera intersection?

The following representations were made to the committee:

The municipal court has received a request from the city attorney's office for assistance in collecting information on red light traffic camera cases heard before its magistrates. The city attorney's office is only interested in cases involving red light violations at a specific intersection that are dismissed at mitigation and pre-trial hearings where the city does not appear. The requested information is available on the court's case management system, but not in the summary form or in the manner requested. The city attorney has represented that it does not have the resources to research and compile the requested information and has asked the court for its assistance.

In another communication the city attorney's office has informed the court of its plans to appeal all dismissals of red light traffic camera cases at that location. The court is concerned about the propriety of divulging defendant outcomes to the city attorney's office without their knowledge. For example, if a defendant's red light camera citation is dismissed, the defendant will assume the decision is final, and have no knowledge that his or her name will be given to the city attorney for the purpose of an appeal.

Answer

CJC Canon 2(A) in pertinent part provides that judges should act at all times in a manner that promotes public confidence in the impartiality of the judiciary. CJC Canon 3(A)(4) provides in pertinent part that judges should not initiate or consider ex parte or other communications considering a pending or impending proceeding.

The city attorney's office is requesting that the court assist it by preparing requested information that is contained in the court's case management system but not in the form that the city attorney would like in order to give them information that would be used in compiling the dismissal rate at a particular intersection where a red light traffic camera is operational. The city attorney has informed the court that it intends to use this information to appeal dismissals of red light traffic camera cases at this intersection. CJC Canon 2(A) and Canon 3(A)(4) prohibit the court from compiling this custom information about cases, which it knows will be the basis for a lawsuit. This information would be for the exclusive benefit of the city attorney's office. Moreover, the information is available and can be retrieved from the court case management system by the city attorney's staff. Compiling and furnishing data to the city attorney, which will be used as the basis of a lawsuit, creates an appearance of partiality and undermines the public confidence in the independence of the judiciary.

Also see Opinion 09-4.